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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Arnold et al.	)	Group No.: 3739
	)	
Serial No.: 09/815,877	)	Examiner: R. S. Rollins
	)	
Filed: March 23, 2001	)	Docket No. AUGA15000005
	)	
For: <b>A WARMING APPARATUS WITH AN INFLATABLE COVER AND AN INLET PORT PLUG</b>		

CERTIFICATION UNDER 37 CFR § 1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date August 1, 2005, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231

August 1, 2005  
Date

Tennice A. Meadows  
Signature

MAIL STOP: APPEAL BRIEF-PATENTS  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA. 22313-1450

REPLY BRIEF

In response to the Examiner's Answer mailed June 1, 2005, the applicants hereby submit this Reply Brief.

**RELATED APPEALS**

In addition to the appeals listed in the Appeal Brief, the assignee of this application also has an appeal pending in commonly-owned US Patent Application 10/131,068.

**ARGUMENT****Anticipation**

The examiner is entitled to apply a broad interpretation to terms of pending claims. Nevertheless, the scope of the interpretation is constrained: the broad interpretation must be “reasonable”. Furthermore, the broadest possible interpretation must be consistent with the interpretation that those skilled in the art would reach. See MPEP 2111.

Dickerhoff’s snap is interpreted as “a plug removably received in at least one port of the two ports.” The contention is that “a snap could be used to close the inlet port, which essentially is a hole. Therefore, the snap would be used to fill a hole as required by the definition given by the applicant.” The applicants respectfully submit that this interpretation of snap as a plug is unreasonably broad. The applicants further submit that no traversal of has been entered as to Dickerhoff’s failure to enable placing, retaining, or receiving a plug in an inlet port.

According to the plain meaning in the definitions submitted by the applicants, a “plug” is a piece of material that fills a hole. This comports with the many embodiments of flexible material sheets that are described in the specification. However, a typical snap is a mechanism, not a piece of material. Furthermore, although Dickerhoff nowhere illustrates or describes what a snap is, the applicants presume a snap is a mechanism with two cooperating parts: a bulbous projection and a round receptacle. The only hole filled by a snap is the round receptacle, not an inlet port.

In order to anticipate claims 34, 35, and 54, the Dickerhoff reference must enable the claimed invention. That is, Dickerhoff’s disclosure must teach the reasonably skilled artisan *how to make* and *how to use* the invention of the rejected claims.

The specification and figures of the application contain substantial detail as to the shape, composition, location and manner of making a number of plug embodiments. See, for example, FIGS. 1 and 2 and the specification at page 5, line 15 through page 6, line 14. Moreover, the specification also describes an exemplary inlet port structure in detail. See FIG. 1 and the specification at page 1, lines 16-26. The specification further teaches the skilled artisan how a plug is operated in order to close and open an inlet port. See FIG. 1 and the specification at page 6, lines 3-14, for example. With these figures and directions, the applicants have enabled the skilled artisan to make and use a plug to control an inlet port. Dickerhoff entirely omits enablement of any means to control an inlet port.

Dickerhoff describes how a *blanket* is made (column 3, lines 29-42). But there is absolutely no description or illustration in Dickerhoff that enables the construction of blanket inlet ports with snaps. The reference has only a single schematic plan view of a blanket, but there is no reference numeral or schematic element indicating snaps or any means permitting opening and reclosing an inlet port. Where and how are snaps supported at an inlet port? Are they integrated into the structure of the blanket at the inlet port? If so, how? Are snaps permanently attached, or are they removable? Are the snaps on the inside of the port? On the outside? How are the snaps operated to open and reclose an inlet port? Dickerhoff does not answer any of these questions. In truth, it is speculation to say, without supporting evidence, that the snaps mentioned by Dickerhoff have any form or structure or location. Further, in place of describing how snaps are used, the reference merely says that inlet ports may be closed by “suitable means” including snaps (column 3, lines 1-5) and that the inlet ports will be initially closed by means, such as snaps, that allow reclosing (column 3, lines 13-16). How then can the skilled artisan, with only Dickerhoff as guidance, know how to *make* and *use* a plug that can be placed and retained in an inlet port as per claim 34? How can the skilled artisan, with only Dickerhoff as guidance, know how to *make* and *use* a plug that can be removably received in an inlet port as per claims 35 and 54? Manifestly, Dickerhoff does not enable a method of using such a plug and does not enable a blanket with such a plug.

#### Obviousness

The contention in the Examiner's Brief is that, because a snap comprises a “semi-rigid material” it may be used with Berke's “semi-rigid” collar. Perhaps so, but this is a mere listing of parts. The claims rejected for obviousness have multiple elements that co-operate in explicitly-recited ways. The combination proposed to support the rejection must have a reasonable expectation of success and must include all elements of a rejected claim. No explanation of any reasonable expectation of success in the combination of Berke with Dickerhoff has been entered into the record of this application. In fact, it is submitted that a successful combination of Dickerhoff's snaps with Berke's semi-rigid collar is difficult to imagine. Furthermore, there is no suggestion or teaching as to how a semi-rigid snap would be “removably received in at least one port of the two ports” constituted of Berke's semi-rigid collar.

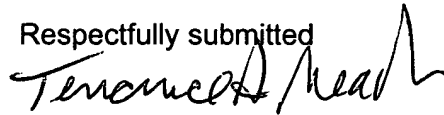
Conclusion

In view of the remarks made in this paper, it is submitted that Dickerhoff fails to meet the *prima facie* elements of anticipation and fails to enable the invention set forth in claims 34, 35, and 54. It is further submitted that Dickerhoff in combination with Berke fails to meet the *prima facie* elements of obviousness with respect to the invention set forth in claims 35 and 56. Accordingly, the Board is respectfully requested to instruct the examiner to withdraw the rejections and allow these claims.

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Respectfully submitted



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